

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

DEC 12 2005

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

JUAN ALBERTO SALVADOR,

No. 04-71318

Petitioner,

v.

Agency No. A79-289-703

ALBERTO R. GONZALES, Attorney
General,

Respondent.

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted December 5, 2005**

Before: GOODWIN, W. FLETCHER, and FISHER, Circuit Judges.

Juan Alberto Salvador, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

immigration judge's ("IJ") decision denying his application for cancellation of removal. We dismiss the petition for review for lack of jurisdiction.

Salvador's sole contention in his petition for review is that the IJ's denial of his motion for a continuance violated due process. Salvador did not exhaust this claim before the BIA, and therefore we lack jurisdiction to review it. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004) (holding that exhaustion is mandatory and jurisdictional); *Liu v. Waters*, 55 F.3d 421, 426 (9th Cir. 1995) (noting that the court lacks jurisdiction over alleged procedural errors, constitutional or otherwise, that can be corrected by the BIA).

The voluntary departure period was stayed, and that stay will expire upon issuance of the mandate. *See Desta v. Ashcroft*, 365 F.3d 741, 750 (9th Cir. 2004).

PETITION FOR REVIEW DISMISSED.